

IN THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

**SILVERPOP SYSTEMS, INC.,**

**Plaintiff,**

**v.**

**LEADING MARKET  
TECHNOLOGIES, INC.,**

**Defendant.**

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**Civil Action File  
No. 1:12-CV-2513-SCJ**

**SILVERPOP SYSTEMS, INC.'S**  
**MOTION FOR SUMMARY JUDGMENT**

**TROUTMAN SANDERS LLP**

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Plaintiff Silverpop Systems, Inc. moves for summary judgment in accordance with Fed. R. Civ. Pro 56. Defendant Leading Market Technologies, Inc. ("LMT") counterclaims for breach of contract, fraud and negligence, arising out of a 2010 Data Breach. LMT claims that the value of the email addresses it stored in Silverpop's technology system was destroyed by the Breach. Silverpop moves for summary judgment. LMT has not suffered the damages it claims, nor is its proof of damages sufficient. Further, the damages LMT claims are consequential and, therefore, not recoverable. LMT's claims also fail because LMT cannot show a causal connection between the Breach and any damages, establish the elements of its tort claims, or overcome the legal bar to those claims.

In support of its Motion, Silverpop relies on the following:

1. **Statement of Material Facts as to Which There Exists No Genuine Issue to be Tried**, filed contemporaneously herewith.
2. **Memorandum in Support of Motion for Summary Judgment**, filed contemporaneously herewith.
3. **Depositions, Affidavits and other Original Discovery**, on file with the court or subject to Silverpop's Request for Filing Original Discovery.

Respectfully submitted this 13<sup>th</sup> day of August 2013.

**TROUTMAN SANDERS LLP**

/s/ John P. Hutchins

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